

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
SUPREME COURT

Gulliver's Tavern, Inc., d/b/a The Foxy Lady,  
Petitioner,

v.

No. 18-\_\_\_\_\_

City of Providence, Board of Licenses;  
Jorge Elorza, in his official capacity as Mayor of  
the City of Providence; Dylan Conley, Chairman,  
Charles Newton, Delia Rodriguez-Masjoan,  
and Peter Mancini, in their official capacities as  
members of the Board of Licenses; Steven Paré,  
in his official capacity as Commissioner of  
Public Safety of the City of Providence,  
Respondents.

MEMORANDUM IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI  
AND EMERGENCY MOTION FOR STAY PENDENTE LITE

Petitioner Gulliver's Tavern, Inc. d/b/a The Foxy Lady ("Petitioner"), has asked that this Honorable Court issue a Writ of Certiorari to the City of Providence Board of Licenses (the "Board"), in order to review a decision dated December 19, 2018 (the "Decision"), revoking Appellant's Entertainment, Holiday and Food Licenses (the "Licenses").<sup>1</sup> In addition, pursuant to Rule 13(f), Petitioner has requested a Stay Pendente Lite of the enforcement of the Decision and Order of the Respondent revoking the Licenses.

<sup>1</sup>A copy of the Decision is attached to the Petition as Exhibit 1. Appellant has additional licenses which were also revoked by the Decision, specifically its Class BV, Class BX, and Class N liquor licenses; however, the Department of Business Regulation (the "Department") has initial jurisdiction in de novo review over any action against the liquor licenses, and Petitioner is simultaneously filing with the Department an appeal of the Decision and an emergency motion to stay revocation of the liquor licenses. A copy of the Appeal and Emergency Motion For Stay before the Department is attached hereto as Exhibit 2.

In support of this certiorari request and emergency motion for stay, Petitioner has averred that:

(1) it lacks any other appellate or other process to review the action of the Board in revoking the Licenses; thus, except for the within Petition, no notice of appeal to this Court or any other court has been filed or may be filed from a Decision of a local licensing authority on a matter involving a non-liquor license.<sup>2</sup> See, Vintage Sound, Inc. d/b/a Xcel Lounge v. City of Providence, Board of Licenses, DBR No. 18LQ022, Order Re: Motion For Stay And Providing Notice Of Hearing, 10/25/18, at pp. 3-4, citing *El Nido v. Goldstein*, 626 A.2d 239 (R.I. 1993); *Cullen v. Town Council of Town of Lincoln*, 893 A.2d 239 (R.I. 2000); and *Eastern Scrap Services, Inc. v. Harty*, 341 A.2d 718 (R.I. 1975).

(2) the Board's decision was wrong as a matter of law in that, *inter alia*, the Board exceeded its jurisdiction as there is no relevant and competent evidence to support its ruling [see, e.g., Cadillac Lounge, LLC v. City of Providence, 763 A.2d 993, 995 (R.I. 2001)];<sup>3</sup>

(3) the Board's Decision was patently arbitrary, discriminatory, and unfair, in that, *inter alia*, the Board ignored its own policy of progressive discipline, as Petitioner has been licensed by the Board for nearly 40 years during which time it has had only one violation (related to gambling), which occurred over 25 years ago, and that the Board has

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<sup>2</sup>The Decision is of no assistance in this regard. It advises that any appeal related to the liquor licenses is to the Department of Business Regulation, but vaguely (and without adequate notice) asserts that appeals concerning other licenses (including those at issue here) "may require appeal through the State court system." Decision, 12/19/18, at p. 2.

<sup>3</sup>The Order to Show Cause is attached hereto as Exhibit 3, and Summary Police Incident Reports were attached as Exhibit A to the Order. Ultimately, in its Decision, the Board purportedly found violations of these statutes, as well as R.I.G.L. §5-22-5 (creating a danger to the public health and safety) and certain provisions of the Providence City Code (which are essentially duplicative of the state law violations).

treated Petitioner differently than other licensed establishments in the City committing far more egregious disciplinary violations;

(4) the Board has not shown and cannot show, with the evidence presented at its hearing, that Petitioner poses a threat to public safety such that the revocation of its Licenses is necessary to protect the public safety.

(5) Petitioner was denied its right to due process of law and equal protection under the law, including without limitation, a taking of its property rights in the Licenses without due process, as guaranteed by the Rhode Island and United States Constitutions, and has been and continues to be denied the beneficial use of his property (i.e., the Licenses), until this matter is adjudicated [see, e.g., *Tavone v. Town of West Warwick*, 1978 WL 196114 (R.I.Super. 01/24/78)];

(6) in particular as to the request for stay, Petitioner has suffered and is continuing to suffer irreparable harm in that, *inter alia* (a) its Premises have been closed for 7 days during which it has lost, and continues to lose, unrecoverable goodwill and patronage of its customers; (b) the economic harm being suffered by Petitioner is so great, and increasing, that it will not be able to recover from it, making any possibility of an adequate remedy at law in the form of financial compensation unattainable; and (c) Petitioner pays, either as employees or as independent contractors, more than 225 individuals on a regular basis, all of whom are currently out of work and unable to support themselves or their families, particularly at this time of year, and in this economic climate.<sup>4</sup>

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<sup>4</sup>The amounts of these losses also do not reflect the loss to the State of Income (both individual and corporate) and Employment Tax revenue.

(7) In the event the Licenses remain revoked (and the Premises remain closed), Petitioner will be irrevocably denied any meaningful appeal, in both this Court and at the Department of Business Regulation<sup>5</sup>, because the appellate process, both in this Court and at the Department, will consume more time than Petitioner can remain closed and sustain the economic and goodwill losses to allow it to recover in the event of a successful appeal.<sup>6</sup> See, e.g., Leone v. Town of New Shoreham, 534 A.2d 871 (1987). In short, if the stay is not granted, petitioner will lose its business without having had the opportunity for review of the Board's decision.

Petitioner is Constitutionally entitled to a meaningful review of the action of a local licensing authority before being deprived of his business and property. Such a review must be undertaken by this Court as the law provides no other remedy. Absent the requested stay, Petitioner will be irrevocably deprived of that right.

WHEREFORE, Petitioner respectfully requests that this Honorable Court

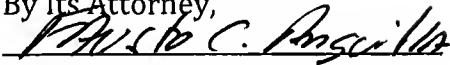
1. grant the Petition for Writ of Certiorari;
2. review and reverse the Decision or the Board revoking Petitioner's Licenses;
3. pending final adjudication of this matter, enter a stay Pendente Lite of the enforcement of the Decision revoking Petitioner's License;

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<sup>5</sup>The interdependency of the appeal to the Department and this Petition is important. In the case of Petitioner's particular business, the revoked licenses depend on each other to support the business. Without the entertainment license, the liquor licenses cannot alone sustain the business, and *vice versa*. The Department has a long history of granting stays of enforcement of disciplinary violations pending their *de novo* review of the actions of local liquor licensing authorities. To deny the stay requested in this Court would all but moot the appeal and request for stay at the Department. In addition, the *de novo* record that will be developed at the Department proceeding will assist this Court in its determination of the Petition.

<sup>6</sup>As provided by Rule 13, Respondent has 20 days within which to file a memorandum in opposition to this Petition, and petitioner has an additional 10 days thereafter to reply. The filing time periods alone, even if expedited, would consume more time than Petitioner can continue to remain closed.

4. grant such other relief as the Court may deem proper.

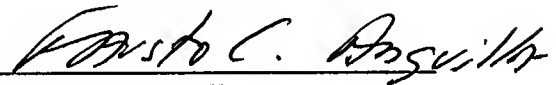
Respectfully submitted,  
Gulliver's Tavern, Inc.  
d/b/a/ The Foxy Lady,  
By Its Attorney,  
  
Fausto C. Anguilla, Esq. (#3959)  
56 Pine Street – Suite 200  
Providence RI 02903  
Tel. 401.270.5474  
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Email fausto@anguillalaw.us

CERTIFICATE OF SERVICE

I, Fausto C. Anguilla, hereby certify that I have filed the foregoing pleading with the Clerk, Rhode Island Supreme Court, and served a copy of the same upon the following by delivery to each of them via email or hand delivery at the addresses listed below, this 20<sup>th</sup> day of December, 2018:

Mario Martone, Esq.  
Assistant City Solicitor  
City of Providence, Law Department  
444 Westminster Street, 2<sup>nd</sup> Floor  
Providence RI 02903

Louis DeSimone, Esq.  
Counsel, City of Providence Board of Licenses  
25 Dorrance Street  
Providence RI 02903

  
Fausto C. Anguilla

# EXHIBIT 2

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
PASTORE COMPLEX  
1511 PONTIAC AVENUE  
CRANSTON, RHODE ISLAND

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Gulliver's Tavern, Inc., d/b/a The Foxy Lady  
Appellant,

v.

City of Providence, Board of Licenses,  
Appellee.

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DBR No.:

APPEAL FROM DECISION AND ORDER OF REVOCATION  
AND EMERGENCY MOTION FOR STAY

I. INTRODUCTION

Pursuant to R.I.G.L. §3-7-21, Gulliver's Tavern, Inc., d/b/a The Foxy Lady ("Appellant"), hereby files this appeal with the Director of the Department of Business Regulation ("Department") of the Providence Board of Licenses' ("Board") decision, issued on December 19, 2018 ("Decision")<sup>1</sup>, to revoke, *inter alia*, its Class BV, Class BX, and Class N liquor licenses ("Licenses"). Concurrent with this Appeal, Appellant seeks a stay of the

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<sup>1</sup>A copy of the Decision is attached hereto as Exhibit 1. Appellant has additional licenses—specifically entertainment, holiday and food licenses—which were also revoked by the Decision; however, the Department has *de novo* appellate jurisdiction over only the liquor licenses. *Vintage Sound, Inc. d/b/a Xcel Lounge v. City of Providence Board of Licenses*, 18L022, Order Re: Motion For Stay And Providing Notice of Hearing, 10/25/18, at pp. 3-4. Therefore, simultaneously with the filing of this appeal and emergency motion for stay, Appellant has filed with the Rhode Island Supreme Court a Petition for Certiorari and Emergency Motion for Stay in connection with the revocation of the entertainment, holiday and food licenses. A copy of that Petition is attached hereto as Exhibit 2. In the operation of Appellant's business—and in that of any adult entertainment venue—the interdependency of the liquor and non-liquor licenses is necessary to the operation of the business.

revocation of the Licenses; unless the stay is granted and Appellant is allowed to operate its business, Appellant will be denied any meaningful appeal of the Board's action.

On Wednesday, December 12, 2018, the Board issued an Order to Show Cause ("Order") why Appellant's licenses should not be revoked or suspended (among other potential penalties), alleging as a basis therefor violations of R.I.G.L. §3-5-21 (breach of a condition of a license or violation of an applicable rule or regulation), and R.I.G.L. §3-5-23 (permitting the licensed premises ["Premises"] to become disorderly or permitting a violation of Rhode Island law in the neighborhood).<sup>2</sup> The Board met at 1:00 p.m. on Wednesday and issued an "emergency order" that the Premises be closed forthwith; the Board then convened an evidentiary hearing at 5:00 p.m. on Thursday, which was not concluded and was thus continued until Monday, December 17, at 3:30 p.m. On Monday, the hearing was completed, and the Board voted 3-1, over Appellant's objection, to order that the Premises remain closed pending a decision to be rendered at 1:00 p.m. on Wednesday, December 19. That decision was issued as scheduled, and the Board voted, again by a margin of 3-1, to revoke Appellant's licenses.

Appellant hereby appeals the Board's decision ("Decision") revoking the licenses (thus closing the Premises), and requests an emergency stay of the Decision while the appeal of the revocation of the licenses is adjudicated. See, MDLL, LLC, d/b/a Roxy v. City of Providence Board of Licenses, DBR No. 13LQ134, Recommendation And Interim Order

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<sup>2</sup>The Order to Show Cause is attached hereto as Exhibit 3. Ultimately, in its Decision, the Board purportedly found violations of these statutes, as well as R.I.G.L. §5-22-5 (creating a danger to the public health and safety) and certain provisions of the Providence City Code (which are essentially duplicative of the state law violations).



Granting Partial Stay, 10/30/13, at p. 1 [citing then Rule 4B of the Department's Commercial Licensing Regulation 8, Liquor Control Administration (CLR 8)].

## II. JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I.G.L. §§3-5-1, *et seq.*; 3-7-1, *et seq.*; 42-14-1, *et seq.*; and 42-35-1, *et seq.* This jurisdiction is limited to matters concerning the liquor licenses only; Appellant recognizes that the Department does not have jurisdiction to grant a stay of revocation of the entertainment license, or to review its revocation. *Vintage Sound, Inc. d/b/a Xcel Lounge v. City of Providence Board of Licenses*, 18L022, Order Re: Motion For Stay And Providing Notice of Hearing, 10/25/18, at pp. 3-4. It does, however, have broad discretion to review local liquor licensing decisions on a *de novo* basis, subject to relevant provisions of the Rhode Island Administrative Procedures Act, R.I.G.L. §42-35-1, *et seq.* "The grant of an order staying the decision of the local licensing authority pending the outcome of an appeal to the Department is thus within the Department's sole discretion." *MDLL, LLC, d/b/a Roxy v. City of Providence Board of Licenses*, DBR No. 13LQ134, Recommendation And Interim Order Granting Partial Stay, 10/30/13, at p. 2, and citing *Burton v. Lefebvre*, 53 A.2d 456, 460 (R.I. 1947).

## III. PROCEEDINGS BEFORE THE BOARD

There is not yet available to Appellant a written transcript of the proceedings before the Board; however the recordings of the oral proceedings before the Board are available on line. Appellant represents that the alleged violations were grounded upon reports of three undercover Providence Police officers that they were solicited by entertainers on the Premises on the evening of Tuesday, December 11.<sup>3</sup> The December 12 hearing consisted of

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<sup>3</sup>Summary Police Incident Reports were attached as Exhibit A to the Order.

the testimony of Providence Police Sgt. Daniel Tejada, the License Enforcement Officer, who testified that the undercover officers were sent into the Premises by Providence Police Sgt. Ludovici. On December 13, the undercover officers themselves testified to their interactions with three entertainers who work at the Premises (as independent contractors) as exotic dancers, whom the officers subsequently arrested and charged with solicitation pursuant to R.I.G.L. §11-34.1-2. There was no direct evidence at the hearing that Appellant was aware that there was any instance of prostitution on the Premises. Moreover, the "facts" the Board found were "established" at the hearing are incorrect, inaccurate, not supported by the testimony and in many cases contradicted by the hearing evidence, as well as by evidence not presented at the hearing.

#### IV. PRIOR DISCIPLINE

Appellant's establishment has been operating in the City of Providence, pursuant to a variety of licenses, for nearly 40 years. It has incurred only one disciplinary violation during that time period, in 1993, some 25 years ago. It is unquestionably the largest and most successful facility of its kind in Rhode Island, and probably in New England, and has been licensed longer than any other adult entertainment venue; in fact, probably longer than the vast majority of licensed establishments serving alcohol. Having this kind of longevity in this context with virtually no disciplinary infractions is astonishing.<sup>4</sup>

#### IV. ARGUMENT

Appellant submits that the stay should be granted for many of the reasons cited by the Department in other decisions. As the Department has said on numerous occasions,

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<sup>4</sup>"The Board took administrative notice of the record of the licensee which indicated no violations of any kind at the establishment before this incident." Decision, 12/19/18, at p. 2.

A stay will not be issued unless the party seeking the stay makes a "'strong showing' that "(1) it will prevail on the merits of its appeal; (2) it will suffer irreparable harm if the stay is not granted; (3) no substantial harm will come to other interested parties; and (4) a stay will not harm the public interest." *Narragansett Electric Company v. William W. Harsch et al.*, 367 A.2d 195, 197 (1976). Despite the ruling in *Harsch*, the Supreme Court in *Department of Corrections v. Rhode Island State Labor Relations Board*, 658 A.2d 509 (R.I. 1995) found that *Harsch* was not necessarily applicable in all agency actions and the Court could maintain the status quo in its discretion when reviewing an administrative decision pursuant to R.I. Gen. Laws § 42-35-15(c). While appeals before the Department do not fall under R.I. Gen. Laws § 42-35-15(c), it is instructive to note that the *Department of Corrections* found it a matter of discretion to hold matters in status quo pending review of an agency decision on its merits.

*171 Chestnut Street LLC d/b/a Art Bar v. City of Providence Board of Licenses*, DBR No.

18LQ025, Order Re: Motion For Stay, 11/20/18, at pp. 2-3. See also, *CAG Productions, LP*

*d/b/a Euphoria*, DBR No. 16LQ022, Order Re: Motion For Stay, 01/03/17, at p. 2; *First Shot*

*LLC d/b/a Knightsville Pub v. City of Cranston, City Council Safety Services Committee*, DBR

No. 18LQ023, Order Re: Motion For Stay, 11/20/18, at p. 2.

In this case, it will take some time to litigate the appeal of the Board's decision. The hearing consumed a total of over 5 five hours in two sessions. The Premises have already been closed for 7 days at considerable economic cost. Moreover, Appellant pays workers, either as paid staff or as independent contractors, more than 225 individuals on a regular basis. The economic hardship on the individuals who depend on working at the Premises, particularly during this time of year, is staggering.<sup>5</sup>

To the extent that the Department considers likelihood of success on the merits as a factor in determining whether to issue a stay, this case presents a strong likelihood of

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<sup>5</sup>The figures associated with these losses also do not account for the loss to the State of Income (both individual and corporate) and Employment Tax revenue.

success on de novo review. The post-arrest interviews of the women who were arrested and charged with solicitation contradict the testimony of the undercover officers at the hearing; furthermore, those women make it clear that Appellant's management was unaware of their activities.<sup>6</sup>

To the extent that the Department considers irreparable harm as a factor in the stay calculus, the harm here is that the economic loss is so severe that Appellant will never be able to recover from it. In addition, the business is losing customers who may never return, thereby irreparably damaging its goodwill. See, Leone v. Town of New Shoreham, 534 A.2d 871 (1987). In addition, as the Department itself has noted, even the financial damage incurred by a suspension as short as 3 days may prevent recovery from the economic harm incurred, in light of the difficulty in recouping losses after a successful appeal, especially in cases involving "issues of governmental immunity and the difficult quantification of damages." MDLL, LLC, d/b/a Roxy v. City of Providence Board of Licenses, DBR No. 13LQ134, Recommendation And Interim Order Granting Partial Stay, 10/30/13, at p. 3 [and citing Martinelli v. Hopkins, 787 A.2d 1158, 1167 (R.I. 2001)].

And finally, the harm to the employees and independent contractors is irreparable as they either have lost or will lose their livelihoods.

In addition to Appellant's likelihood of success on appeal and showing of irreparable harm, Appellant points out that the Department has a long history of granting stays in order to maintain the status quo during the appeal process. In fact, that position has been taken even in cases where an appellant has come to the Department bearing an extremely

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<sup>6</sup>The Providence Police recorded interrogation of the three women arrested, consisting of nearly two hours of interviews, which were not played at the Board hearing.

negative disciplinary history [see, e.g., CAG Productions, LP d/b/a Euphoria, DBR No. 16LQ022, Order Re: Motion For Stay, 01/03/17, at p. 4 (appellant licensed for only 4 years accumulated 10 disciplinary violations, 7 for disorderly conduct; current incident was in which 4 or 5 patrons were ejected, and in an ensuing fight outside the club, an individual was stabbed)], or in cases of far more serious offenses [see, e.g., 171 Chestnut Street LLC d/b/a Art Bar v. City of Providence Board of Licenses, DBR No. 18LQ025, Order Re: Motion For Stay, 11/20/18, at p. 4 (patron fired a gun at the ceiling inside the club)].

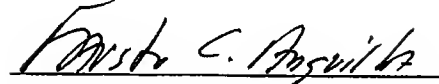
Finally, Appellant submits that in the event the Licenses remain revoked (and the Premises remain closed), Appellant will be irrevocably denied any meaningful appeal, both before the Department as well as in the Supreme Court, as the appellate process, both here and there, will consume more time than Appellant can remain closed and sustain the economic and goodwill losses to allow it to recover in the event of a successful appeal. In short, if the stay is not granted, Appellant will lose his business without having had an opportunity to appeal. This is clearly inequitable.

WHEREFORE, Appellant requests that the Department

(a) acting as a superlicensing authority, conduct a full and complete *de novo* review of the action of the Board, reverse the Decision of the Board and reinstate Appellant's liquor licenses, and

(b) stay enforcement of the Decision revoking Appellant's liquor licenses pending the adjudication of the above appeal.

Respectfully submitted,  
Gulliver's Tavern, Inc.  
d/b/a/ The Foxy Lady,  
By Its Attorney,



Fausto C. Anguilla, Esq. (#3959)  
56 Pine Street - Suite 200  
Providence RI 02903  
Tel. 401.270.5474  
Fax 401.274.2780  
Email fausto@anguillalaw.us

CERTIFICATE OF SERVICE

I, Fausto C. Anguilla, hereby certify that I have filed the foregoing pleading with the Department of Business Regulation, by hand delivery to the Department at 1511 Pontiac Avenue, Cranston RI, and served a copy of the same upon the following by delivery to each of them via email or at the addresses listed below, this 20<sup>th</sup> day of December, 2018:

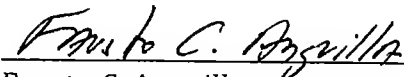
Mario Martone, Esq.  
Assistant City Solicitor  
City of Providence, Law Department  
444 Westminster Street, 2<sup>nd</sup> Floor  
Providence RI 02903

Ms. Liz Tanner, Director  
Department of Business Regulation  
1511 Pontiac Avenue  
Cranston RI 02920

Louis DeSimone, Esq.  
Counsel, City of Providence Board of Licenses  
25 Dorrance Street  
Providence RI 02903

Ms. Pamela Toro  
Attorney at Law  
Associate Director, Dept. of Bus Reg.  
1511 Pontiac Avenue  
Cranston RI 02920

Ms. Catherine Warren  
Hearing Officer - Dept. of Bus. Reg.  
R.I. Department of Administration  
One Capitol Hill - 2<sup>nd</sup> Floor  
Providence RI 02908



Fausto C. Anguilla

# EXHIBIT 3

THE CITY OF PROVIDENCE BOARD OF LICENSES  
CITY HALL  
25 DORRANCE STREET  
PROVIDENCE, RI 02903

IN RE: Gulliver's Tavern, Inc. d/b/a  
The Foxy Lady  
incident of December 11, 2018

Matter No.: 18-128939

**ORDER TO SHOW CAUSE WHY LICENSES SHOULD NOT BE  
REVOKED OR SUSPENDED AND/OR OTHER PENALTIES  
SHOULD NOT ISSUE**

Pursuant to its authority under Section 1102 of the City of Providence Home Rule Charter, and Sections 3-5-15, *et seq.*, 5-22-1, *et seq.*, 5-23-1, *et seq.*, and 5-24-1, *et seq.* of the General Laws of the State of Rhode Island, and Sections 14-300, *et seq.* of the City of Providence Code of Ordinances, the Board of Licenses of the City of Providence (hereinafter the "Board") hereby issues this ORDER TO SHOW CAUSE WHY LICENSES SHOULD NOT BE REVOKED OR SUSPENDED AND/OR OTHER PENALTIES SHOULD NOT ISSUE to

Gulliver's Tavern, Inc. d/b/a The Foxy Lady  
(hereinafter "Licensee")

- Class BV
- Class BX
- Class N
- Entertainment
- Holiday
- Food

requiring Licensee to appear before the Board and answer why the Board should not issue an order revoking or suspending all licenses held by Licensee and/or imposing other penalties for violation of the following:

1. R.I. Gen. Laws § 3-5-21 - Breach by Licensee of the conditions on which license to sell alcoholic beverages was issued or for violation by the Licensee of any rule or regulation applicable;
2. R.I. Gen. Laws § 3-5-23 - Permitting the house or place where Licensee is licensed to sell alcoholic beverages to become disorderly or otherwise permitting any of the laws of the State of Rhode Island to be violated in the neighborhood;



The incident(s) resulting in this Order to Show Cause were documented by Providence Police in Police Incident Report Nos. 18-12940, 18-128939, 18-128941, attached hereto and made a part hereof as EXHIBIT A.

WHEREFORE, the City of Providence Board of Licenses hereby orders:

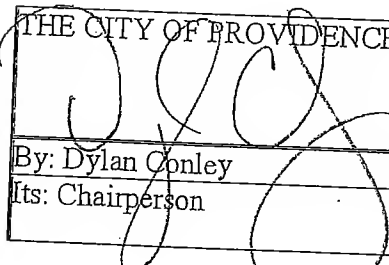
1. the Licensee to appear before the Board, at Providence City Hall, 25 Dorrance Street, Providence, Rhode Island, 02903 on

Thursday, December 13th, 2018 at <sup>5:00 PM</sup> ~~1:00 P.M.~~ in Probate Court

and show cause why the Board should not revoke or suspend the license(s) held by the Licensee and/or why other penalties should not issue.

NOTE: LICENSEE MUST BE REPRESENTED BY COUNSEL AND MUST PRESENT HIS/HER LICENSES AT TIME OF APPEARANCE. FAILURE TO COMPLY WITH THIS ORDER AND APPEAR BEFORE THE CITY OF PROVIDENCE BOARD OF LICENSES ON THE DATES INDICATED ABOVE WILL BE DEEMED A FULL ADMISSION OF THE VIOLATIONS ENUMERATED HEREIN.

Dated this 12 day of December, 2018.

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| THE CITY OF PROVIDENCE BOARD OF LICENSES,  |
|  |
| By: Dylan Conley   |
| Its: Chairperson   |

**EXHIBIT A**

# Providence Incident Report

## Summary

Print Date/Time: 12/12/2018 08:56  
 Login ID: spetrocchi  
 Case Number: 2018-00128939

ORI Number:

Providence Police Department  
 RI0040900

### Case

Case Number: 2018-00128939  
 Location: 318 CHALKSTONE AVE  
 Providence, RI 02908  
 Reporting Officer ID: 12669 - Cuellar

Incident Type: Prostitution  
 Occurred From: 12/11/2018 19:00  
 Occurred Thru: 12/11/2018 19:00  
 Disposition:  
 Disposition Date:  
 Reported Date: 12/11/2018 19:00 Tuesday

### Offenses

| No. | Group/ORI | Crime Code | Statute | Description   | Counts |
|-----|-----------|------------|---------|---|--------|
| 1   | State     | 40B        | 11-34-8 | LOITERING FOR INDECENT PURPOSES<br>PROSTITUTION - ASSIST/PROMOT | 1      |

### Subjects

| Type    | No. | Name          | Address                                    | Phone | Race  | Sex    | DOB/Age          |
|---------|-----|---------------|--|-------|-------|--------|------------------|
| Suspect | 1   | Rivera, Neish | 318 CHALKSTONE AVE<br>Providence, RI 02908 |       | Black | Female | 03/10/1993<br>25 |
| Victim  | 1   | Society       |  |       |       |        |                  |

### Arrests

| Arrest No. | Name          | Address                                    | Date/Time        | Type               | Age |
|------------|---------------|--|------------------|--------------------|-----|
| 98734 A    | Rivera, Neish | 318 CHALKSTONE AVE<br>Providence, RI 02908 | 12/11/2018 22:00 | Taken into Custody | 25  |

### Property

| Date | Code | Type | Make | Model | Description | Tag No. | Item No. |
|------|------|------|------|-------|-------------|---------|----------|
|------|------|------|------|-------|-------------|---------|----------|

### Vehicles

| No. | Role | Vehicle Type | Year | Make | Model | Color | License Plate | State |
|-----|------|--------------|------|------|-------|-------|---------------|-------|
|-----|------|--------------|------|------|-------|-------|---------------|-------|

## License Bureau Supp

On 12/11/18, Detectives from the License Enforcement Unit assisted members of NOC during an investigation into prostitution at the Foxy Lady, 318 Chalkstone Ave. The above mentioned female was charged with PROSTITUTION.  
A copy of this report will be forwarded to the Law Department for referral to the Board of Licenses.

**Ecuellar**

During the month of December 2018, Detectives from the Providence Police Department conducted an investigation into an adult establishment located at 318 Chalkstone Ave (Foxy Lady), due to recent complaints regarding illegal sexual misconduct and prostitution within the establishment.

On December 11, 2018 at approximately 1900 hours Detectives from the Providence Police Department, under the supervision of Lieutenant Figueiredo and Sergeant Ludovici entered the establishment at 318 Chalkstone Ave (Foxy Lady) in an undercover capacity. While inside the establishment, Detective Cuellar was approached by a female who identified herself as "London", later identified as Neish Rivera DOB 3/10/1993. Rivera asked the Detective if he wanted a private dance downstairs in the private "VIP" room. The Detective advised that he had never been in the private room and asked what he could get in the private room as opposed to the regular dance room on the main floor. Rivera advised that the private room would be a minimum of 300.00 \$ for a half hour for "anything you want".

Rivera then escorted Detective Cuellar to the private "VIP" room located in the lower level. Upon arriving to the lower level Detective Cuellar was directed to pay the bouncer (unknown identified male) \$100.00 US currency. Detective Cuellar then handed \$200.00 US currency to Rivera. Rivera then stated that she was going to her locker and would return. Upon returning Rivera escorted Detective Cuellar to a private room located in the rear of the lower level. Rivera then unclothed completely naked and performed a private dance. After a few minutes Rivera stated "when I meant \$300.00 dollars I meant \$300.00 dollars for me, for another \$100.00 Dollars I'll do anything". At this time Detective Cuellar refused Rivera's solicitation. After a few moments Rivera then groped Detective Cuellar's genital area and stated "you want me to pull it out, for another \$100.00 dollars we can have sex". Again Detective Cuellar refused Rivera's solicitation. After the Private dance Detective Cuellar left the establishment.

Detective Cuellar notified other Providence Police Detectives at which time they entered the establishment and identified Rivera, whom was subsequently taken into custody without incident. Rivera was transported to Central Station where she was charged by NOC with Prostitution, 11-34.1-2 and was subsequently released to appear in 6th district court on December 20th, 2018.

# Providence Incident Report

## Summary

Print Date/Time: 12/12/2018 08:53  
 Login ID: spetrocchi  
 Case Number: 2018-00128940

ORI Number: Providence Police Department  
 RI0040900

### Case

Case Number: 2018-00128940  
 Location: 318 CHALKSTONE AVE  
 Providence, RI 02908  
 Reporting Officer ID: 11558 - Desmarais

Incident Type: Prostitution  
 Occurred From: 12/11/2018 19:00  
 Occurred Thru: 12/11/2018 19:00  
 Disposition:  
 Disposition Date:  
 Reported Date: 12/11/2018 19:00 Tuesday

### Offenses

| No. | Group/ORI | Crime Code | Statute | Description  | Counts |
|-----|-----------|------------|---------|--|--------|
| 1   | State     | 40A        | 11-34-8 | LOITERING FOR INDECENT PURPOSES<br>PROSTITUTION - PROSTITUTION | 1      |

### Subjects

| Type    | No. | Name             | Address                             | Phone | Race  | Sex    | DOB/Age          |
|---------|-----|------------------|-------------------------------------|-------|-------|--------|------------------|
| Suspect | 1   | McNeely, Melissa | 604 OPENING HILL RD.<br>madison, CT |       | White | Female | 05/25/1986<br>32 |
| Victim  | 1   | Society          |                                     |       |       |        |                  |

### Arrests

| Arrest No. | Name             | Address                                    | Date/Time        | Type           | Age |
|------------|------------------|--|------------------|----------------|-----|
| 98733 A    | McNeely, Melissa | 318 CHALKSTONE AVE<br>Providence, RI 02908 | 12/11/2018 00:00 | On-View Arrest | 32  |

### Property

| Date | Code | Type | Make | Model | Description | Tag No. | Item No. |
|------|------|------|------|-------|-------------|---------|----------|
|------|------|------|------|-------|-------------|---------|----------|

### Vehicles

| No. | Role | Vehicle Type | Year Make | Model | Color | License Plate | State |
|-----|------|--------------|-----------|-------|-------|---------------|-------|
|-----|------|--------------|-----------|-------|-------|---------------|-------|

## License Bureau Supp

On 12/11/18, Detectives from the License Enforcement Unit assisted members of NOC during an investigation into prostitution at the Foxy Lady, 318 Chalkstone Ave. The above mentioned female was charged with PROSTITUTION.  
A copy of this report will be forwarded to the Law Department for referral to the Board of Licenses.

### NARR

During the month of December of 2018, Detectives for the Providence Police Department conducted an investigation into an adult establishment located at 318 Chalkstone Ave Providence RI (Foxy lady) due to the recent complaints of illegal sexual misconduct and prostitution inside the establishment.

On 12/11/18 Detectives from the Providence Police Department entered 318 Chalkstone Ave. (Foxy Lady) in an undercover capacity to address the illegal prostitution and sexual misconduct from inside the establishment. While inside the establishment a detective from the Providence Police Department was greeted by a white skinny female who identified herself as Ryan. Ryan and the undercover detective engaged in small talk in which led into a conversation about "downstairs private VIP Room". During this conversation "Ryan" who was later identified as Melissa Mcneely DOB 05/25/86 asked the detective if he wanted to get a lap dance. The detective replied "no thanks I'm not into lap dances". Ryan then stated to the undercover detective that the downstairs private VIP room is not a lap dance and that for \$300 you can eat me out (it should be noted that this is slang for oral sex). The detective stated no I'm not into that and Ryan again stated well I can lick your dick (penis) in the VIP room for the same price! At which Point the undercover detective stated maybe later in the evening he would go downstairs with her and just want to relax now. The undercover detectives then walked away.

Approximately an hour later the detective was approached by Ryan again. Ryan stated "are you ready to have some fun downstairs". The detective stated he was good for tonight. The detective gave the prearranged signal and other Detectives from the Providence Police Department entered the establishment. The undercover Detective pointed out Ryan, the female who solicited the undercover detectives and Ryan was apprehended and Transported to Central Station without incident. Mcneely was charged with 11-34.1-2 Prostitution for a fee. Mcneely was released to appear on 12/20/18 at 0830 hours at 6th District Court.

# Providence Incident Report

## Summary

Print Date/Time: 12/12/2018 08:51  
 Login ID: spetrocchi  
 Case Number: 2018-00128941

ORI Number: Providence Police Department  
 RI0040900

### Case

Case Number: 2018-00128941  
 Location: 318 CHALKSTONE AVE  
 Providence, RI 02908  
 Reporting Officer ID: 14038 - Lafferty

Incident Type: Prostitution  
 Occurred From: 12/11/2018 19:00  
 Occurred Thru: 12/11/2018 19:00  
 Disposition:  
 Disposition Date:  
 Reported Date: 12/11/2018 19:00 Tuesday

### Offenses

| No. | Group/ORI | Crime Code | Statute | Description  | Counts |
|-----|-----------|------------|---------|--|--------|
| 1   | State     | 40A        | 11-34-8 | LOITERING FOR INDECENT PURPOSES<br>PROSTITUTION - PROSTITUTION | 1      |

### Subjects

| Type    | No. | Name              | Address                                    | Phone | Race  | Sex    | DOB/Age          |
|---------|-----|-------------------|--|-------|-------|--------|------------------|
| Suspect | 1   | Hoffmann, Lindsay | 318 CHALKSTONE AVE<br>Providence, RI 02908 |       | White | Female | 08/12/1988<br>30 |
| Victim  | 1   | Society           |  |       |       |        |                  |

### Arrests

| Arrest No. | Name              | Address                                    | Date/Time        | Type           | Age |
|------------|-------------------|--|------------------|----------------|-----|
| 98735 A    | Hoffmann, Lindsay | 318 CHALKSTONE AVE<br>Providence, RI 02908 | 12/11/2018 20:00 | On-View Arrest | 30  |

### Property

| Date | Code | Type | Make | Model | Description | Tag No. | Item No. |
|------|------|------|------|-------|-------------|---------|----------|
|------|------|------|------|-------|-------------|---------|----------|

### Vehicles

| No. | Role | Vehicle Type | Year | Make | Model | Color | License Plate | State |
|-----|------|--------------|------|------|-------|-------|---------------|-------|
|-----|------|--------------|------|------|-------|-------|---------------|-------|

## License Bureau Supp

On 12/11/18, Detectives from the License Enforcement Unit assisted members of NOC during an investigation into prostitution at the Foxy Lady, 318 Chalkstone Ave. The above mentioned female was charged with PROSTITUTION.  
A copy of this report will be forwarded to the Law Department for referral to the Board of Licenses.

### Narrative

During the month of December 2018, Detectives from the Providence Police Department conducted an investigation into an adult establishment located at 318 Chalkstone Ave (Foxy Lady), due to recent complaints regarding illegal sexual misconduct and prostitution within the establishment.

On 12/11/18 Detectives from the Providence Police Department entered the establishment at 318 Chalkstone Ave in an undercover capacity to address the aforementioned complaints. While inside the establishment, this undercover Detective was approached by a female with multicolored hair who stated her name was "Blake", later identified as Lindsay Hoffman (8/12/88). Hoffman asked the Detective if he wanted a private dance downstairs in the private "VIP" room. The Detective advised that he had never been in the private room and asked what he could get in the private room as opposed to the regular dance room on the main floor. Hoffman advised that the private room would be a minimum of 300.00 \$ for a half hour for "anything you want" regarding a sexual nature. The Detective then stated that he did not have 300.00\$, and Hoffman replied that 15 minutes would cost \$160.00 for a fully nude dance; however, she again stated that the Detective could pay a fee of \$300.00 to her for "anything" if the detective's friends could pitch in money. The detective then agreed to pay the \$160.00 for a 15 minute dance. Hoffman then escorted the Detective downstairs to the private room, which consisted of an additional bar area and several individual private booths. Before entering the booth, the detective had to hand an "additional tip" to a female standing by the bar area holding a clip board. After paying the additional tip, the Detective was escorted to the private booth and the private dance ensues for the prepaid time allotment. Hoffman then fully undressed and commenced her dance routine; there was no further discussion regarding services after this point. After a brief time following the dance, this undercover Detective gave a prearranged signal to other Providence Police that entered the establishment and identified Hoffman, whom was subsequently taken into custody without incident. Hoffman was transported to C/S where she was charged by NOC with Prostitution, 11-34.1-2 and was subsequently released to appear in 6th district court on 12/20/2018.